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# USAID/MACEDONIA JUDICIAL STRENGTHENING PROJECT (JSP)

**MONTHLY REPORT: NOVEMBER OF 2012**

December 3, 2012

This publication was produced for review by the United States Agency for International Development. It was prepared by Tetra Tech DPK.

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## **I. PROGRAM-RELATED ACTIVITIES AND TASKS**

### **1. RESULT 1: STRENGTHENING ADVOCACY AND CITIZEN PARTICIPATION IN JUDICIAL SECTOR REFORM**

#### **1.1. Requirement 1.1 - A short, Focused Assessment, Baseline Survey, and Resulting Action Plan on Judicial-Sector Professional Associations and Civil Society Organizations, and the Role they Can Play in Strengthening the Rule-of-Law Area in Macedonia**

The short focused initial assessment of the organizational needs of 11 professional organizations and CSOs was completed earlier in the project by the selected sub-contractor, The Center for Institutional Development (CIRa). Three organizations were selected for phase II of the assessment. The selected organizations are:

- The Macedonian Judges Association (MJA);
- The Macedonian Young Lawyers Association (MYLA);
- The Court Administration Association (CAA).

#### **1.2 Requirement 1.2 - Per the Findings of Requirement 1.1, the Capacity of at Least two Judicial Sector Professional Associations is Improved**

Pursuant to contract Requirement 1.2 and after discussion with and approval by the Contracting Officer Representative (COR), the Judicial Strengthening Project (JSP) proceeded to implement phase III, which includes activities designed to enhance the capacity of the selected organizations. Phase III includes a series of trainings and workshops from October 2012 through, (at the latest), October 2013.

After posting a Request for Proposal (RFP) and evaluation by JSP staff, Mesacons/Embra (Embra) was selected and a sub-contract signed on October 15. According to the plan submitted by the Embra (as amended), the first training took place on October 31 and November 1. The trainings and workshops will continue through August 30, 2013. However, if due to unforeseen circumstances, the sub-contractor cannot complete its deliverables by August 2013, the JSP may reschedule the activities to be completed no later than October 30, 2013.

The second coordination meeting between the JSP and the sub-contractor took place on November 16 at which the JSP DCOP, Nena Ivanovska and the JSP Court Administration Coordinator, Ketii Businoska discussed minor issues which arose from the first training including the cost allowed to participants traveling to the events. All issues were satisfactorily resolved with Embra.

The JSP staff has been overseeing the training/workshops. The reports by the participants have been very positive. The trainers and facilitators have been given high marks and the content has been appropriate and rich in substance. As required, Embra filed its first monthly report with JSP on November 16.

##### **1.2.1 Macedonian Judges Association**

##### ***Capacity Building and Sustainability Trainings and Workshops***

The MJA is one of the organizations targeted for capacity and sustainability training with the JSP sub-contractor, Embra. During November, the MJA received the following training:

Activity/Deliverable	Activity Description	Start Date	Finish Date	Trainers
Two Trainings on:  1. Advocacy and Lobbying (1.5 days);  2. Project Planning, Design and Implementation / Project Cycle Management (3 days).	<ul style="list-style-type: none"> <li>Preparation of the trainings and workshop materials;</li> <li>Implementation of the trainings and workshop;</li> <li>Evaluation of the trainings and workshop.</li> </ul>	Oct. 31, 2012  Nov. 6, 2012	Nov. 1, 2012  Nov. 8, 2012	Marjan Tanushevski  Denis Zernovski

### 1.2.2 Court Administration Association

#### **Support for a CAA Publication and Intern to Support the CAA**

The initial and follow-on assessment of the (CAA), conducted by the Center for Institutional Development (CIRa) from February to May 2012, clearly identified problems in the functioning of this young professional organization. The problems associated with the functioning of the CAA are caused by a lack of professional personnel and the nonexistence of a functioning administrative office. The hiring of an intern will support work of the president of the association and enable a clear channel of communication with branch offices and other members. Also envisioned is the development of a JSP-supported association publication for distribution to its members. The intern will also attend the capacity building trainings and workshops given by Embra which will further strengthen the capacity of this association and support its daily work. The activity has been approved by the COR and the CAA hierarchy is in the process of selecting an intern. The intern will receive a small stipend for daily expenses from the JSP.

#### **Capacity Building and Sustainability Trainings and Workshops**

Two representatives from the CAA attended the first coordination meeting with Embra and plans were developed for the first round of trainings and workshops. Representatives of the CAA met with Embra along with the MJA and the MYLA on October 19 to coordinate future activities.

The trainings/workshops in November were as follows:

Activity/Deliverable	Activity Description	Start Date	Finish Date	Trainers
One Workshop on: 1. Developing New Strategic Plan 2013-2015 (3 days)	<ul style="list-style-type: none"> <li>Preparation of the trainings and workshop materials;</li> </ul>	Nov. 19, 2012	Nov. 21, 2012	Hari Shutoski
One Training on: 2. Advocacy and Lobbying (1,5 days);	<ul style="list-style-type: none"> <li>Implementation of the trainings and workshop;</li> <li>Evaluation of the trainings and workshop.</li> </ul>	Nov. 29, 2012	Nov. 30, 2012	Marjan Tanushevski

### 1.2.3 Macedonian Young Lawyers Association

The MYLA is a LPA that provides continuing legal education for young lawyers and works to promote and improve the lawyers' profession in Macedonia. The MYLA also works to promote access to public information and supports the establishment of a free legal aid system.

#### *Capacity Building and Sustainability Trainings and Workshops*

The MYLA was one of the organizations targeted for capacity and sustainability training with Embra. Representatives of the MYLA, the CAA and MJA had their first coordination meeting with Embra on October 19 and developed a plan schedule for the first round of trainings and workshops. During November a workshop for MYLA was conducted as follows:

Activity/Deliverable	Activity Description	Start Date	Finish Date	Trainers
One Workshop on: 1. Developing New Strategic Plan 2013-2015 (3 days)	<ul style="list-style-type: none"><li>▪ Preparation of the trainings and workshop materials;</li><li>▪ Implementation of the trainings and workshop;</li><li>▪ Evaluation of the trainings and workshop.</li></ul>	Nov. 6, 2012	Nov. 8. 2012	Hari Shutoski

On November 13, the JSP DCOP, Nena Ivanovska, met with the executive director of MYLA to discuss a request for financial support in publishing a brochure for the organization. The informational brochure will be designed to attract new members to the association and to fortify the participation of existing members. MYLA will prepare the publication and JSP will assume the cost of printing and offer technical assistance for its design and distribution.

### 1.2.4 Off-shore Study Tour for LPAs & CSOs

During this reporting period, plans for a study tour to take place around March 2013 were started. Approximately eight participants will be selected from the membership of the LPAs and CSOs with which JSP has been working and is supporting. The study tour will provide participants with an opportunity to learn how LPAs and CSOs function and support the judiciary. They will learn how to organize targeted advocacy campaigns, draft laws, and lobby for their enactment.

This activity requires a fair and open procurement process to select an implementing partner. The JSP has prepared the Scope of Work (SOW) and RFP and plans to publish it in early December. The solicitation will require the vendor to propose two alternative study tours in two countries, i.e. the UK and Estonia, and Sweden and Estonia. Depending on the quality of the technical and cost proposals, and the relative benefits versus cost of each, the project will select one of the two groups of countries that offer the best value for our client and beneficiaries.

## **2. RESULT 2: MORE INDEPENDENT, EFFICIENT, AND CONSISTENT APPLICATION OF JUDICIAL POLICIES AND PRACTICES**

### **2.1 Requirement 2.1 - Legal Framework and Judicial Branch Policies Strengthen Independence, Effectiveness, and Accountability of the Judicial System**

## **2.1.1 Review and Advocacy of Laws by the Judiciary**

### ***Macedonian Judges Association Roundtables***

On November 1, the JSP DCOP held a conference call with the director of the Academy for Judges and Public Prosecutors (the Academy) and the president of the MJA. They discussed the possibility of sponsoring a discussion group on judicial ethics in cooperation with the Academy, Judicial Council and the MJA. The Project, at this moment, intends to support this initiative by providing comparative materials on ethics and judicial conduct from US and EU countries with more formal activities in March 2013.

### ***Judicial Branch Forum***

The first Judicial Branch Forum took place on November 6. The participants for this forum included the top policy and decision makers of the judiciary in the Republic of Macedonia, and included the acting chief justice<sup>1</sup>, president of the Judicial Council, president of the Court Service Council, Director of the Academy for Judges and Prosecutors, president of the Court Budget Council,<sup>2</sup> the four presidents of the appellate regions, presidents of High Administrative and Administrative Court, head of the Administrative office of Court Budget Council, president of the MJA representing the judges of the Republic and president of the Court Administration Association. Unfortunately, the director of the Academy, the president of the CSC, and president of the High Administrative Court were unable to attend.

The roundtable discussion focused on the achievements of judicial reform to date, and the needs of the judiciary going forward. Special emphasis was placed on how the current laws are working and what gaps need to be filled.

This is the first time, since the restructuring of the courts and court administration, that a formal gathering of the top policy and decision-makers were together to discuss relevant judicial policy issues. This offered an opportunity to foster communication and collaboration between the high level actors. The JSP will strive to institutionalize the forum and to replicate it on a periodic basis, resulting in better communication among key policy makers. This group has the potential to collectively become a powerful voice for the judicial branch. The consensus of those who were present was that this forum should take place on a quarterly basis.

## **2.2 Requirement 2.2 - Administration and Management Rules, Policies and Procedures, Systems and Practices to Support a Modern Court System**

### **2.2.1 Court Service Council and Court Administrators**

Since the beginning of this year, the JSP has been supporting the Court Service Council (CSC) and the Administrative Office (AO) of the Court Budget Council (CBC) with a number of initiatives of important initiatives. These activities are now coming to fruition. The JSP's support includes the development of sub-regulations in hiring and discipline of court employees. The Ministry of Justice (MOJ) was involved in the sub-regulation for the hiring of court employees since the sub-regulation requires MOJ approval for implementation. In addition to prescribed hiring practices, the sub-regulation will include sections on internal announcements for hiring employees from within the courts and examinations for apprentices entering court service. The MOJ is expected to approve the sub-regulations within the next few weeks and publish them in the Official Gazette.

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<sup>1</sup> At this writing, the position of president of the Supreme Court (Chief Justice) is covered by acting president judge Milka Stefkova. The appointment of a new president of the Supreme Court is pending.

<sup>2</sup> The president of the Judicial Council is *ex officio* the president of the Court Budget Council.

The development of the second sub-regulation supported by JSP involves the discipline of court employees. This regulation will be presented to the CSC for its approval and implemented with the assistance of the project.

A human resources manual for court administrators was also developed as a guidance document for the court administrators and their staffs. The JSP will arrange for the publication of this document and will offer assistance in distributing it to all the courts. The publication will be distributed to the courts via electronic e-mail and printed hard copies upon final approval by the CSC, expected to be received on December 4.

### **2.2.2 Development of Needs Based Budgets**

In consultation with the head of the AO of the CBC, the major JSP activities concluded successfully for the year 2012, with the submission of the budget to the Ministry of Finance for final review. In the JSP Second Year Work Plan, the project proposes to continue activities to strengthen the capacity of the AO and the courts through needs-based budgets. It is envisioned that the emphasis going forward will be to identify and directly assist those courts deemed to be weak or deficient in needs-based budget preparation and to have full compliance with needs-based budget regulations by the end of 2013.

### **2.2.3 Support for Court Accountants**

The AO has requested the JSP's support for a training entitled "Preparation of Final Annual Account" for the court accountants from all courts. Ms. Silvija Janevska, head of the AO of CBC will suggest an external (from outside the courts) local expert to assist in the training. The event is currently planned for mid-December 2012.

The head of the AO has also requested that the JSP supports a roundtable discussion on "Standardization of Supporting Accounting Documents, and Courts' Financial Reports" in mid-January 2013. The target group for this roundtable will be a select group of accountants and judges. The input of judges is important due to the need for symmetry between certain actions by the judges and the requirements of the court accounts. (E.g. an order for expert testimony requires that the accountants enter correct fiscal information into the courts financial data base).

### **2.2.4 Support of Public Information/Education Activities Support**

#### ***Student Visits to Courts and Informational Publication for Students***

In support of improved transparency, understanding and information about the judicial branch, the JSP plans to sponsor student visits to a number of courts in Macedonia over the life of the project. During October, plans were developed to sponsor visits for high school students to Basic Court Bitola and Basic Court Tetovo along with the distribution of an informational publication.

The JSP has teamed-up with the European Law Students Association (ELSA) which has, at the project's request, produced an informational brochure geared towards high school students. The brochure describes the judicial branch, the structure of the Macedonian courts, their function and jurisdictions. The brochure is being printed by the project and will be distributed to the students visiting the courts as well as to other citizens. The first two student visits will take place during December and will include presentations by the president judges, court administrators and ELSA representatives.

ELSA is currently working on a second publication on the subject of Juvenile Justice which the JSP has agreed to print and distribute along with other student court visits.

### **2.2.5 Differentiated Case Management – Consultancy**

The Macedonian judiciary made positive progress in the reduction of pending cases and especially a significant reduction of backlog cases. The positive trend is the result of several factors such as the adoption of the new Law on Civil Procedure, divestiture of enforcement cases to enforcement agents, uncontested inheritance cases and payment orders to notaries, as well as better training and more scrupulous oversight by the Supreme Court and the JC. This increase in the efficiency was reflected in an EU progress report for 2012.

However, there is more to be done to bring about a truly efficient system. During November, the JSP staff decided that a US based consultant to work on Differentiated Case Management (DCM) for the courts of Macedonia was necessary. The project started the recruitment and approval process, and JSP anticipates that the DCM activity will occur in late January or early February of 2013.

### **2.2.6. Harmonization of Civil and Criminal Court Proceedings**

The JSP has agreed to organize and support three to four working meetings a year for president judges, heads of departments and selected judges from the four appellate courts to discuss the harmonization of civil and criminal court decisions from the appellate regions. One of the weaknesses is an inconsistent application of the laws within the same court and sometimes between councils of the same court. Different councils can reach different decisions although applying the same articles of the laws. This causes legal uncertainty and decreases public trust and confidence in the judiciary.

The goal of these ongoing working meetings is to bring to a conclusion a number of questions raised by civil and criminal court departments. The third event<sup>3</sup> was held on November 5, in cooperation with the president judges of the appellate regions and the Academy. The JSP intends to publish the conclusions, along with selected court decisions, in a bulletin to be distributed. This will provide useful tool for judges of the basic and appellate courts.

## **3. RESULT 3: INCREASED FAIRNESS AND EFFICIENCY OF THE ADMINISTRATION OF JUSTICE THROUGH MORE EFFECTIVE LEGAL PERSONNEL AND EFFICIENT PROCESSES**

### **3.1. Requirement 3.1: Develop and Implement Targeted Specialized Trainings for Judges, Court Administrative Executives, and Court Staff**

The Roundtable on “*Identifying the Needs for Continuous Education of Judges in the Area of Commercial Law*” was held on November 22, 2012 in Skopje. It was implemented in cooperation with the USAID Investment Development and Export Advancement Support Project (IDEAS), and the Academy. The goal of the roundtable was to collect opinions for specialized training needs for commercial judges, and to develop recommendations for specialized trainings. The attendees were commercial judges from selected basic and appellate courts, commercial lawyers and representatives from the business community. Thirty eight participants attended. Specific suggestions for specialized training included: expert testimony, international agreements, good business practices, financial instruments and accounting categories, bank operations, and enforcement clauses in agreements, construction disputes, cadaster, property issues, evidence quality, managing the procedure for new judges, and the specialization of commercial judges.

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<sup>3</sup> The JSP supported two of these three events and will support those in the future.



### **3.2 Requirement 3.2 - Improve Caseload Processing and Reduce Backlog of Cases**

There has been much progress in case disposition and backlog reduction in most courts. However, gaps remain. Cases processing committees are required in each court by the Law on Case Management. These bodies are the key to expeditious resolution of cases as well as the reduction of backlog cases. However, experience has shown that not all committees operate efficiently and not all of the committees interpret their responsibilities in a consistent manner.

Accordingly, the JSP embarked on an initiative to address this issue and enhance the capabilities of the courts' case processing committees. To launch the initiative, the JSP assembled a select committee of local experts to analyze the gaps and formulate solutions. The first meeting of the select committee took place on November 20. The group began the process of identifying issues and gaps in the current system of tracking cases, to establish protocols and procedures for unifying the work of the courts' committees, and to maximize their effectiveness. A sub-committee was formulated to fabricate a draft model "monthly report" and "internal procedures" required by the law.

Long-term plans include assembling the elements of a training to be given in each appellate region with a "train-the-trainers" element. Selected court personnel from each region will then be tasked with training in the courts with the greatest backlog of cases.

#### **3.2.1 Support for Judicial Sector Automation**

##### ***ACCMIS Database Warehouse and Statistical Interface Software***

The JSP, together with the JC, is developing an "ACCMIS Database Warehouse and Statistical Interface Software" that will generate more precise and targeted statistical reports for the courts. These specialized reports are needed by the JC and the European Commission for Efficiency of Justice as part of Macedonia's integration with EU judicial standards. Coordination meetings with the vendor, EduSoft, as well as the president of the JC and the JSP DCOP, took place on November 1 and 9, with the goal of finalizing the format and contents of the reports that will be produced by the Statistical Data Warehouse Software. The JSP DCOP has regular communication with EduSoft to ensure the deliverables are submitted on time.

##### ***Supreme Court Coordination Committee for Improving Use of ACCMIS***

The Committee for Improving Use of ACCMIS meets regularly and JSP staff attends the meetings to facilitate coordination between the committee and courts. The committee working on developing uniform nomenclatures for court decisions in criminal, civil, administrative and non-contested procedure is close to finalizing its work. In addition, an ACCMIS committee was established to develop a protocol for electronic court delivery of summons. Judge Stojance Ribarev was named as president of that committee. This committee was tasked to develop this protocol in the next two months (December 2012 and January 2013).

##### ***Automation for High Administrative Court***

The ACCMIS system has been in use in all 33 courts since January 2010. In November 2010, with the latest changes in the Law on Courts, the High Administrative Court was established to decide appeals on decisions brought by the Administrative Court. The initial ACCMIS application was not projected to be used in this court. Further development of ACCMIS is necessary to upgrade the system and enable processing of cases in the High Administrative Court. The JSP has committed to underwriting the cost of an upgrade to ACCMIS, including testing, installation and training for users in the High Administrative Court. The project is in the process of negotiations with the sole source vendor and preparing the necessary documents for HO approval of a sole source contract. The upgrade of ACCMIS and roll-out of the application in the High Administrative Court is expected by February 28, 2013.

### ***Electronic Digital Recording of Court Hearings and Trials***

On November 27, Judge Ljubica Kolic, Slavica Zerajik from the Ministry of Justice, Goran Mitev from EduSoft, a representative of ICS Consulting Engineering (ICS) and Nena Ivanovska and Ivan Mojsov from JSP attended a meeting at Skopje II Basic Court to test the Electronic Recording System. The system was tested in a courtroom and included the audio recording and minutes of the hearing saved to the ACCMIS electronic case file.

The following conclusions were made:

- ICS will prepare a list of all the features that the recording system offers the courts;
- ICS will prepare a draft provision for the Court Book of Rules (CBR) on the duties of the typist during the electronic recording of cases; and,
- ICS and EduSoft will work on the integration of the recording system and ACCMIS to allow written minutes from the hearing to migrate and enter the case docket.

The draft text of the CBR provisions will be sent to all participants that attended this meeting for their comments and input. The deadline for the submission of their input was Thursday, November 29. The MOJ/Working Group reviewed the proposed provisions of the CBR and presented them to the Minister of Justice on Friday, November 30, 2012. Based on these efforts, the Minister will present the status of implementation of the “Electronic Court Recording to the Judicial Reform Council” at a meeting scheduled on December 4, 2012.

### ***Request for Computers and Security Cameras by Appellate Court Gostivar***

Judge Hajdari Ekrem Shefajet, president of the Gostivar Appellate Court requested security cameras and a number of computers and other equipment for the court. On November 30, the JSP COP, Court Administration Coordinator, JSP Technical/Logistic Coordinator and the COR visited the court to evaluate the request and discuss the justification with the president judge and the court administrator. A decision on the request is pending further analyses, pricing and research.

## **II. PROBLEMS AND REMEDIAL ACTIONS**

Problems have been minimal and in the nature of those to be expected in the regular course of business. A minor issue in the last report was the resignation of the project attorney, Kristina Cuculoska. After this resignation, the project immediately posted an advertisement for a replacement in the newspaper and some local websites. The project received several resumes, and selected the best ones. After this, the JSP interviewed candidates and made a final decision to replace the former project attorney. The selected candidate was Mr. Ivan Mojsov, who started in the position on December 1, right after JSP received rate approval from USAID.

## **III. SUMMARY OF ACTIVITIES PLANNED FOR DECEMBER 2012**

Summary of activities planned for December include:

- Oversee and manage the “Capacity Development Program” with Embra, the sub-contractor;
- Maintain regular communications with Embra and conduct regular coordination meetings according to the sub-contract;
- Continue coordination with the Academy for future events;
- Continue to accumulate statistical data on case filings, dispositions, and backlogs by court and case type, and prepare an analysis of the case data;
- Plan for next phase of the Implementation of Staffing Guidelines;

- Support working committee and sub-committee to identify gaps and recommend protocols for the courts' case processing committees and schedule next meeting;
- Finalize suggestions of the working committee for case processing and schedule regional events;
- Continue to work with six pilot courts and supply support to meet targets;
- Provide support to the courts and the Supreme Court IT Department to implement the complete system and wide use of ACCMIS;
- Support working group for developing forms of the statistical reports for ACCMIS Warehouse initiative;
- Finalize RFP and other plans for providing ACCMIS to the High Administrative Court;
- Support for a training entitled "Preparation of Final Annual Account" for court accountants from all courts;
- Assist court administration expert in preparing "*Differentiated Case Management System*" consultancy; provide supporting information and documents and schedule in-country work;
- Publish RFP for first year study tour for NGOs and CSOs representatives;
- Conduct interviews and orientation for the new inter at the CAA administrative office;
- Amend Second Year Work Plan, as requested, and begin implementation;
- Prepare and plan for various December/January activities with CAA, CSA, CBC, AO, and JC;
- Print project fact sheet and distribute;
- Print Success Story fact sheet featuring grants won by MYLA;
- Print and distribute the CAA/CSC Human Resource Manual;
- Continue updating the JSP web site;
- Conduct student visits to courts and distribute ELSA publication;
- Assist ELSA with second publication on Juvenile Justice;
- Initiate Home Office Global Fellow (if deployed) on SOW and day-to-day duties and responsibilities;
- Support amendments to Court Book of Rules regarding "Electronic Recording" of court hearings; prepare plans for trainings and roll-out to pilot courts;
- Prepare for training of staff in two pilot courts on Electronic Recording to begin mid-January.
- Orientation and training of newly hired project attorney.